

**PLANNING COMMISSION MINUTES OF JANUARY 23, 2006**

**2005-1200 – Klub K9 Playcenter LLC** [Applicant] **J L and Associates** [Owner]: Application for a Use Permit in a 26,000 square foot building to allow a day care, boarding, grooming, and training facility for dogs. The property is located **174 Commercial Street** (near Central Expwy) in an M-S (Industrial & Service) Zoning District. (Negative Declaration) (APN: 205-41-009) TF

**Trudi Ryan**, Planning Officer, presented the staff report. She said staff recommends approval of the Use Permit with conditions, finding that this site is one of the few compatible locations for a dog kennel and dog day care in Sunnyvale. She added there is adequate parking and that modest improvements would be made to the site.

**Comm. Sulser** asked why staff indicated this site as one of the few sites in Sunnyvale able to accommodate this use. Ms. Ryan said this application is for a use that does not necessarily have an ideal zoned site as it would not be appropriate in residential or commercial areas. The industrial areas tend to have large buildings and are buffered from adjacent uses which make the industrial area a slightly more compatible location.

**Comm. Klein** commented that he was surprised to see the initial study indicate that noise would have no impact. He asked staff what noise requirement this site would have to meet and if staff is concerned about the noise. Ms. Ryan said in general, staff is not concerned about noise with this project. She said there is concern if there were a major occurrence that disturbed the dogs that the activity level of the dogs might result in raised noise levels. She said Condition of Approval (COA) 1.H. requires that the applicant will need to comply with the City noise standards and see that the animals are not in distress and creating a noise problem. Comm. Klein asked staff what sort of signage is expected. Ms. Ryan said staff discussed signage with the applicant, but the applicant would be able to have a ground sign.

**Comm. Babcock** referred to the report and asked about the maximum allowance of 200 dogs on the site at any given time and asked if there was a limit to the number of dogs that can be outside at any given time, to manage noise levels. Ms. Ryan said there is no limit mentioned in the report, but the applicant may have a number planned. Comm. Babcock referred to the report regarding an elderly care area and asked if this was for medical treatment. Ms. Ryan said that it is not for medical treatment, but would be an area with resources available to help the older dogs that need a little extra care, be more comfortable.

**Vice Chair Fussell** asked how the maximum number of 200 dogs was determined. Staff said the applicant requested the number of 200 dogs. Vice

Chair Fussell asked if there would be any overnight care for the dogs. Ms. Ryan said there is a kennel proposed and there would be some overnight care.

**Chair Hungerford** asked staff what the ingress and egress is for this site. Ms. Ryan said there is no direct access from Central Expressway and that access would be from Commercial Street.

**Chair Hungerford opened the public hearing.**

**Mike Musso**, applicant, asked for clarification on the requirement of slurry sealing the parking lot. He said the parking lot is in fairly good condition, but that staff gave him two reasons that were not clear to him. Mr. Musso said he talked to a paving company and they said as long as the parking lot is prepped properly then the paint should stick. Mr. Musso also requested that an extension of 60 days be allowed on the requirements to paint, slurry seal and re-stripe the site, due to this being the rainy season. He would like to open the business as soon as possible and is concerned that the weather could delay the painting and opening of the business.

**Vice Chair Fussell** asked the applicant how long he has been in business and where else he has operated his business. Mr. Musso said he has been operating a dog training and behavior business from his home for the past 22 years working with the dogs at the clients' homes.

**Comm. Babcock** asked about the outside play areas. Mr. Musso said he does not have an outside play area, and the outside area is the elimination area. The dogs do not go outside to play.

**Comm. Klein** asked what the dog-to-handler ratio is for the elimination areas. Mr. Musso said the ratio is 14 dogs to one handler and that the dogs are in the elimination area from 3 to 10 minutes.

**Chair Hungerford** asked what material the current surface of the parking lot is. Mr. Musso said it is asphalt. Chair Hungerford asked how long it has been since it was repaved. Mr. Musso said the building has been there since the mid-1960s and he does not know if it has been repaved.

**Ms. Ryan** said she did not know the applicant had a problem with the slurry seal requirement and said possibly Public Works could provide alternatives to prepare the lot. Ms. Ryan said she does not know the condition of the parking lot, but if the Planning Commission is inclined to approve the project and look at flexibility in COA 7.A., then staff could be directed to require assurance that the parking lot is in good shape and striped. She said the applicant wants to get operational, and the objective of the slurry seal and re-stripe is so the parking lot is in good shape and striped.

**Harriet Rowe**, resident of Sunnyvale, said she agrees that this is a good service and one she would like to see in the City. She said her problem is location. She said she did have an issue with the possible noise (barking), but if the dogs are going to be inside except for the elimination area, then she no longer has a problem with the noise. She said her only concern is that this is a non-industrial use in an industrial area.

**Mr. Musso** addressed the barking issue and said, as a trainer/behaviorist for the past 25 years, that when dogs are entertained and active they bark very little. He said he counted barking at a dog park versus a site with kennelled, bored dogs and found when dogs are having fun there were less than 30 barks per hour, but when bored there were approximately 300 barks per hour. He said in the dog day care environment the dogs will be entertained and active and the barking should be minimal. He said he has worked with two similar facilities and never had complaints about barking.

**Chair Hungerford** closed the public hearing.

**Comm. Klein** moved for **Alternative 2 to adopt the Negative Declaration and approve the Use Permit with modified conditions; to modify COA 7.A. to include the wording "Investigate the need to seal and re-stripe with staff's approval."; to add COA 1.I. "The maximum number of dogs allowed in the outside elimination area at any time is limited to 20 dogs."** **Vice Chair Fussell** seconded.

**Comm. Klein** said he understands the issues that some citizens have with different uses other than industrial in an industrial area. He said the code promotes having commercial uses with industrial. He said that the City is lacking in this proposed service and this site is one of the better areas in the City to have dog day care and boarding, as the site is not close to residential. He said he is happy to see that there are dog rescue plans, and that this service will benefit the industrial and commercial employees in the immediate area and the Sunnyvale community. **Comm. Klein** said he looks forward to seeing this service come to this site.

**Vice Chair Fussell** said he agrees with **Comm. Klein**.

**Comm. Babcock** said, though she is usually stringent on what is allowed in the industrial zoned areas, she will be supporting this motion. She said she does not know what other zone would be appropriate for this use. She said this is a needed facility for the community and that this is probably the most appropriate site for this use.

**Ms. Ryan** asked for clarification on the modification to the wording **COA 7.A. suggesting alternate wording to include, "If the parking lot is in good condition and the striping can be accomplished on the existing surface**

**then the slurry seal requirement can be eliminated.” The change in wording was acceptable to the maker and seconder of the motion.**

**Chair Hungerford offered a Friendly Amendment to modify COA 1.F. to include the number “200” when referring to the maximum number of animals. The Friendly Amendment was acceptable to the maker and the seconder of the motion.** Chair Hungerford offered a Friendly Amendment to modify COA 2.A.1., to extend the period of time to repaint the exterior of the building to require it be completed by April 15, 2006.

**Comm. Klein** asked staff to comment about extending the time on the painting requirement. Ms. Ryan said staff has not had previous requests from applicants to extend the time on the painting requirement due to weather. She said usually staff works with the applicant and if the work is not completed prior to occupancy then a surety deposit or bond might be required to make sure the requirement is completed. Ms. Ryan said if the COA 2.A.1. is modified, the difficulty could be in the follow-up to see if the painting is completed. Comm. Klein denied the request for a Friendly Amendment and said the issue can be worked out with staff to assure the painting is completed in the appropriate time.

**Final Action:**

**Comm. Klein made a motion on 2005-1200 to adopt the Negative Declaration and approve the Use Permit with modified conditions; to modify COA 7.A. to include the wording, “If the parking lot is in good condition and the striping can be accomplished on the existing surface then the slurry seal requirement can be eliminated.”; to add COA 1.I. “The maximum number of dogs allowed in the outside elimination area at any time is limited to 20 dogs.”; to modify COA 1.F. to include the number “200” when referring to the maximum number of animals. Vice Chair Fussell seconded.**

**Motion carried unanimously, 6-0.**

**This item is appealable to City Council no later than February 7, 2006.**